(3) Single Bench

C.F. (168)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 520 OF 2005

PETITIONER

Ku. Chandrakanti Nag, daughter of Late Sadanand Nag, aged about 55 years, resident of Shankarpara, Raigarh, Distt. Raigarh (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, through : Secretary, Department of Health and Public Welfare, D.K.S. Bhawan, Raipur (CG)

2. The Director, Directorate, Department of Health and Family Welfare, Chhattisgarh, Raipur.

3. Chief Medical and Health Officer, District Raipur (Chhattisgarh)

4. The Collector, District Raigarh (C.G.)

5. The Chief Medical Officer, Jashpur, Distt. Jashpur (CG)

S.R. No. 545/05
Presented by Shri ...
dated 10-02-05

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT ORDER OR DIRECTION IN THE NATURE OF CERTIORARI, MANDAMUS OR OF ANY OTHER APPROPRIATE NATURE.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 520 सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	2.3.2005 Shri Sanjay Kumar Agrawal, counsel for the petitioner. Shri Sandeep Dubey, Panel Lawyer for the State/respondents on advance copy. Heard. The petitioner has challenged the legality of orders, Annexures P- 1 & P-2, which are the transfer as well as relieving orders dated 11.1.2005 and 24.1.2005. Learned counsel for the petitioner submits that the petitioner is working as District Public Health Nursing Officer in Raigarh. She has been transferred from Raigarh to Jashpur on the post of Incharge Principal, Women Health Workers Training Centre, Jashpur. He further submits that the petitioner is posted at Raigarh since the year 1993. He also submits that the petitioner is a heart patient and she is also suffering from diabetes. Learned counsel for the petitioner further submits that Raigarh is the suitable place for stay of the petitioner than Jashpur as there are various medical facilities at Raigarh. He further submits that the impugned order (dated 11.1.2005) of transfer	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश – 2 –	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

should be quashed and the petitioner should be allowed to continue at Raigarh.

First of all the point of writ jurisdiction of this Court as to interfere in the order of transfer is to be considered.

In the series of judgments, the Apex Court has held that the transfer is an incidence of service and is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or visited by malafide or infraction of any prescribed norms of principles governing the transfer. Referring to the decision, reported in ***1995 (Suppl) 4 SCC 169 (Ambani Kanta Ray –Vs- State of Orissa)*** and ***AIR 1993 S.C. 2444 (Union of India –v- S.L. Abbas***), the apex Court has laid down this law in the matter of ***Kendriya Vidyalaya Sangathan –Vs- Damodar Prasad Pandey and others reported in 2004 AIR S.C.W. 5563.*** In this judgment itself, the apex Court in latter part of para 4 mentioned the observations rendered in the matter of ***Union of India & others –Vs- Janardan Debanath and another (2004) 4 SCC 245*** that :-

"No government servant or employee of a public undertaking has any legal right to be posted for ever at any one particular place or

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

posted for ever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of malafide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer/ management, as against such orders passed in the interest of administrative exigencies of the service concerned".

The apex Court further referred to the decision reported in the matter of ***National Hydroelectric Power Corpn. Ltd., -vs- Shri Bhagwan, (2001) 8 SCC 574***.

The above series of judgments pronounced by the apex Court at various points of time go to show that a very limited scope is given for interference with an order of transfer passed by the competent authority. If the jurisdiction and the authority are not challenged nor there is any challenge on the ground of violation of any statutory rules then unless the malafide, arbitrariness or

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

extraneous considerations are established by coming forward with definite pleadings and by bringing some evidence on record, it cannot be said that the transfer which has been shown to be purely on the administrative exigency will not be accepted to be a normal transfer.

In the present case, the petitioner is working at Raigarh since the year 1993. After a very long period, she has been transferred to Jashpur. Raigarh and Jashpur both are the district headquarters. It is difficult for this Court to say that the facilities available at Raigarh will not be available at Jashpur. These are not the grounds to interfere with the order of transfer.

The petition has no merits and the same is dismissed at the admission stage itself.

Sd/-
Sunil Kumar Sinha
Judge

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